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Attorneys for Defendants NORTHBAY  
HEALTHCARE CORPORATION, NORTHBAY  
HEALTHCARE GROUP, INC., and NORTHBAY  
MEDICAL GROUP (erroneously named as a defendant as  
NORTHBAY HEALTHCARE  
MEDICAL GROUP, INC.)

UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA  
SAN FRANCISCO DIVISION

NORTHERN CALIFORNIA MINIMALLY  
INVASIVE CARDIOVASCULAR  
SURGERY, INC., a California Medical  
Corporation, and RAMZI DEEIK, M.D., an  
individual,

Plaintiff,

v.

NORTHBAY HEALTHCARE  
CORPORATION, a California public  
benefit corporation, NORTHBAY  
HEALTHCARE GROUP, INC., a  
California public benefit corporation, and  
NORTHBAY MEDICAL GROUP,

Defendants.

CASE NO. 3:15-cv-06283-WHA

**STIPULATION TO CONSOLIDATE  
CASES AND ~~PROPOSED~~ ORDER**

Judge: The Hon. William Alsup

1 WHEREAS, *Deeik v. NorthBay Healthcare Group, et al.*, Case No. FCS-045917 was  
 2 filed in the Superior Court of Solano on September 4, 2015 (the “state case”);

3 WHEREAS, this case, *Northern California Minimally Invasive Cardiovascular Surgery*  
 4 *Inc., et al., v. NorthBay Healthcare Corp.*, Case No. 3:15-cv-06283-WHA was filed in this  
 5 district on December 29, 2015 and assigned to the Honorable William Alsup on January 21,  
 6 2016 (“this case”);

7 WHEREAS, during the April 21, 2016 case management conference in this case, the  
 8 Honorable William Alsup requested that the parties meet and confer about consolidating the  
 9 two cases;

10 WHEREAS, consolidation of these cases would allow for the efficient adjudication of the  
 11 disputes;

12 **THE PARTIES HEREBY STIPULATE AND AGREE** as follows:

- 13 1. Plaintiffs will file an amended complaint in this case on or before May 15, 2016. The  
 14 amended complaint will add Dr. Deeik’s Health and Safety Code section 1278.5 claim—  
 15 the sole claim pending in the state case. That claim will be asserted only on behalf of Dr.  
 16 Deeik and set forth in a separate section of the amended complaint. Plaintiffs will also  
 17 amend the allegations of their tortious interference with prospective economic advantage  
 18 claim that was dismissed with leave to amend by an order dated April 19, 2016 (Dkt.  
 19 39).
- 20 2. With the consent of the court, Plaintiffs’ time to file their amended complaint is  
 21 extended until May 15, 2016;
- 22 3. Defendants agree not to seek dismissal of the Health and Safety Code section 1278.5  
 23 claim under Rule 12 of the Federal Rules of Civil Procedure once it is added to the  
 24 amended complaint in this case;
- 25 4. Defendants agree that upon inclusion of the Health and Safety Code section 1278.5  
 26 claim in the amended complaint, that claim (and only that claim) shall be deemed to  
 27 have been filed for statute of limitations purposes on the filing date of the state case,  
 28 September 4, 2015;

- 1 5. Nothing in this stipulation shall be read as eliminating any affirmative defenses that  
2 Defendants may seek to assert to any of the counts Plaintiffs may bring in the amended  
3 complaint in this case, including the defense of statute of limitations with respect to the  
4 Health and Safety Code section 1278.5 claim;
- 5 6. Defendants agree that they will not seek fees and costs associated with the addition of  
6 Plaintiffs' Health and Safety Code section 1278.5 claim in this case under Rule 41(d) of  
7 the Federal Rules of Civil Procedure;
- 8 7. Defendants agree that they will not seek fees and costs in the Superior Court of Solano  
9 County as a result of Plaintiffs' voluntary dismissal of the state case; and
- 10 8. Within five (5) days of entry of this stipulation as an order of the Court, Plaintiffs will  
11 dismiss the complaint in the state case.

12 **IT IS SO STIPULATED.**

13 Dated: April 27, 2016

LATHAM & WATKINS LLP

14 By /s/ Christopher S. Yates

15 Christopher S. Yates

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23 Attorneys for Defendants Northbay

24 Healthcare Corporation, NorthBay

25 Healthcare Group, Inc., and

26 NorthBay Medical Group

27 Dated: April 27, 2016

BONA LAW PC

28 By /s/ Jarod Bona

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Attorneys for Plaintiffs Northern  
California Minimally Invasive  
Cardiovascular Surgery, Inc., and  
Ramzi Deeik, M.D.

**ATTESTATION OF CONCURRENCE IN THE FILING**


Pursuant to Civil Local Rule 5-1(i)(3), I declare that concurrence has been obtained from  
each of the above signatories to file this document with the Court.

/s/ Christopher S. Yates  
CHRISTOPHER S. YATES

**[PROPOSED] ORDER**

PURSUANT TO STIPULATION, IT IS SO ORDERED.

Dated: April 28, 2016.

  
Hon. William Alsup  
United States District Judge